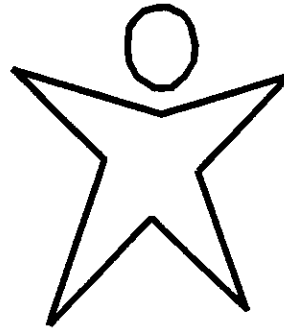


Vermont
**HUMAN
RIGHTS**
Commission



MISSION STATEMENT

The mission of the Vermont Human Rights Commission is to promote full civil and human rights in Vermont. The Commission protects people from unlawful discrimination in housing, state government employment and public accommodations. We pursue our mission by:

- **Enforcing laws**
- **Mediating disputes**
- **Educating the public**
- **Providing information and referrals**
- **Advancing effective public policies on human rights**

* A public accommodation is an establishment such as a school, restaurant, office or store that offers facilities, goods or services to the general public.

MANDATE

The Vermont Human Rights Commission is the state agency having jurisdiction over claims of unlawful discrimination in housing and state employment, and in the provision of goods and services by businesses (including stores, restaurants, professional offices, and hospitals) and by state and local governments (including schools). The Commission has three statutorily mandated roles: enforcement, conciliation, and education.

The Commission is charged with enforcing Vermont's civil rights laws. It investigates allegations of discrimination and determines whether there are reasonable grounds to believe that unlawful discrimination occurred in a case. The Commission's staff seeks to resolve charges through conciliation and mediation. If the Commission finds that there was discrimination in a case and the case cannot be settled, the Commission is authorized to go to court to obtain remedies for violations of the State's civil rights laws.

The Commission is also charged with increasing "public awareness of the importance of full civil and human rights for each inhabitant of this state" and with examining "the existence of practices of discrimination which detract from the enjoyment of full civil and human rights" and recommending "measures designed to protect those rights." 9 V.S.A. §4552. In furtherance of these goals, the Commission's staff speaks with individuals and groups about their rights and responsibilities under state and federal civil rights laws, works with individuals, agencies, and groups to combat bias and bigotry, and supplies information, legal analyses, and advice to the Legislature.

OUTLINE OF AN INVESTIGATION

- ☐ Office hours: 8:00 a.m. - 5:00 p.m. Monday - Friday
Telephone number: (800) 416-2010 (Voice/TTY) (Toll-Free)
(802) 828-2480 (Voice/TTY)
Fax number: (802) 828-2481
Mailing address: 135 State Street
(Located on the 2nd floor; accessible by elevator)
Drawer 33
Montpelier VT 05633-6301
E-mail address: human.rights@state.vt.us
Website: www.hrc.state.vt.us
- ☐ Anyone who believes that he or she has been subject to unlawful discrimination may file a charge under oath with the Commission. Charges may be filed in person at the Commission's offices, by telephone, or in writing. The Commission may accept a charge for investigation if it states a prima facie case, that is, if the facts alleged in the charge amount to unlawful discrimination.
- ☐ The person or entity against which a charge has been filed is sent a copy of the charge and asked to respond in writing to the allegations in the charge.
- ☐ Investigators on the Commission's staff investigate the charge and the response by interviewing the parties and witnesses and gathering and analyzing documents and other information.
- ☐ The Commission encourages settlements between parties and its staff attempts to facilitate settlements at all stages of a case. In addition, the Commission offers parties the services of professional mediators at no cost to assist them to settle cases. If the parties arrive at a resolution of the charge that is satisfactory to them and the Commission, the Commission will close the case and take no further action in the case except to assist in enforcing the terms of the settlement, if that becomes necessary.
- ☐ If the parties cannot arrive at a settlement, the Commission's Investigators will complete the investigation and prepare an Investigative Report. The Report states the facts as the Investigator found them and, based upon those facts and the applicable law, recommends that the Commission find either that there are reasonable grounds to believe that unlawful discrimination occurred or that there are no such grounds.
- ☐ The Investigative Report is not the final outcome of the case; it is only a recommendation to the Commissioners. The Commission sends the Investigative Report to both parties and invites them to submit written responses explaining why they agree or disagree with the Report. The Commissioners review the Investigative Report and the parties' written responses to the Report before they meet to consider a case.

- ☐ The Commission notifies the parties of the date of the meeting at which the Commissioners will consider their case and encourages them to attend the meeting in person or by telephone. Parties attending the meeting have the opportunity to make oral presentations to the Commissioners and to answer the Commissioners' questions about the case. After considering the Investigative Report, the written responses of the parties, and the presentations at the meeting, the Commissioners make a final determination, by majority vote, whether there are reasonable grounds to believe that unlawful discrimination occurred.
- ☐ If the Commission finds reasonable grounds to believe that discrimination occurred, its staff will again try to facilitate a settlement. If no settlement can be reached, the Commission will either commence a lawsuit or close the case.

JURISDICTION

The Vermont Human Rights Commission has jurisdiction over allegations of unlawful discrimination in the following areas:

<u>HOUSING</u> (rental/sale)	<u>PUBLIC ACCOMMODATIONS</u> (schools, restaurants, stores, professional offices, govern- ment agencies, and other places offering goods or services to the public)	<u>STATE EMPLOYMENT</u>
Race	Race	Race
Color	Color	Color
Sex	Sex	Sex
Religion	Religion	Religion
National Origin	National Origin	National Origin
Disability	Disability	Disability
Sexual Orientation	Sexual Orientation	Sexual Orientation
Marital Status	Marital Status	
Age		Age
Minor Children		
Public Assistance		
		Ancestry
		Place of Birth
		HIV related blood test
		Workers' Compensation
		Family/Parental Leave

EDUCATION AND OUTREACH

The Human Rights Commission is charged with increasing the public's awareness of Vermont's civil rights laws. It fulfills this mandate by conducting seminars about civil rights laws and the Commission's role in enforcing those laws, by speaking with groups about their rights and responsibilities under those laws, and by responding to inquiries from members of the public. In FY02, the Commissioners and staff participated in a number of education and outreach efforts. These events are described below:

July 2, 2001—UVM Center for Cultural Pluralism—Investigator Sam Abel-Palmer attended for the Commission and participated in a discussion about relations between Vermont's Black and Jewish communities, current and past tensions, and ways for the two communities to bridge gaps. There were about 30 participants, including community leaders from both groups.

July 9, 2001—Good News Garage- Burlington -- Investigator Sam Abel-Palmer made an informal presentation to the staff of the Good News Garage in Burlington about the work of the Commission with a particular emphasis on outreach to low income communities and families.

July 23, 2001—Vermont Bar Association—Disability Law Committee Meeting—Executive Director Harvey Golubock attended for the Commission. The Committee is working on developing programs and materials explaining disability law.

July 23, 2001—Vermont Center for Independent Living—10th Anniversary of the ADA -- Investigator Sam Abel-Palmer attended the celebration, parade and rally at the Statehouse.

October 4, 2001 – City of Burlington Community and Economic Development Office - Investigator Tracey Tsugawa attended a meeting of refugee service providers as this group continues to discuss addressing refugee issues.

October 23, 2001 - Lyndon State College - Social Welfare Policy Class - Investigator Paul Erlbaum gave a presentation to this class regarding Vermont and federal civil rights law, including fair housing, along with a description of the Commission's jurisdiction and procedures.

October 23, 2001 - Vermont Housing Managers Association - Annual Meeting - Investigator Sam Abel-Palmer represented the Vermont Human Rights Commission at the Vermont Housing Managers Association annual meeting and gave an informal presentation about fair housing and disability issues. There were approximately 35 members in attendance.

October 24, 2001 - Vermont Association for the Blind and Visually Impaired - Investigator Paul Erlbaum made a presentation to the Barre support group about the Human Rights Commission and answered numerous questions regarding Vermont's civil rights law, including fair housing, particularly relating to disabilities and age.

November 1, 2001 - City of Burlington Community Economic Development Office (CEDO) Meeting - Investigator Tracey Tsugawa attended the CEDO meeting about refugee issues, including fair housing, in Burlington. The group is making recommendation to the Agency of Human Services about revising the State's Refugee Plan.

November 1, 2001 - "News and Views from the Statehouse" - Virginia Renfrew and Gail Zatz interviewed Executive Director Robert Appel and Investigator Sam Abel-Palmer for "News and Views from the Statehouse" about the work of the Vermont Human Rights Commission.

November 2, 2001 - Outright Vermont - Investigator Sam Abel-Palmer attended an evening drop-in meeting at Outright Vermont to speak with Gay/Lesbian/Transgendered youth communities about the work of the Commission.

November 13, 2001 - Annual Meeting of the Vermont Association for Mental Health - Investigator Sam Abel-Palmer presented a workshop about fair housing and disabilities for the Vermont Association for Mental Health.

November 20, 2001 - Adelphia Cable Program - Executive Director Robert Appel participated in a taped interview by Roy Hill about the work of the Commission.

November 29, 2001 - Vermont State Housing Authority - Investigator Sam Abel-Palmer presented a training workshop for the Vermont State Housing Authority on fair housing.

December 4, 2001 - Fair Housing Coalition - Executive Director Robert Appel, Investigators Paul Erlbaum, Tracey Tsugawa and Sam Abel-Palmer attended a Fair Housing Coalition meeting including staff from Vermont Legal Aid and the Fair Housing Project at Champlain Valley Office of Economic Opportunity (CVOEO) to discuss development of a fair housing coalition and better ways to coordinate housing efforts of these organizations. Investigator Tracey Tsugawa met with Deborah Lisi-Baker from the Vermont Center for Independent Living to discuss the development of the Access Project work with the ADA Coalition.

December 5, 2001 - Investigator Tracey Tsugawa met with Assistant Attorney General Martha Csala to discuss and plan workshops on discrimination for refugee communities and service providers who work with refugees.

December 5, 2001 - Vermont Refugee Assistance Program - Executive Director Robert Appel met with Patrick Giantonio, Co-Director of the Vermont Refugee Assistance Program about how our respective organizations could coordinate our efforts on behalf of recent immigrants. Robert received assurances that the Commission would be offered as an enforcement resource to VRA clients encountering unlawful discrimination within our jurisdiction.

December 7, 2001 - Fair Housing Coalition - Investigator Tracey Tsugawa attended a follow-up meeting about the Fair Housing Coalition with Rob Meehan and Willa Daryl-Chapin of the CVOEO - Fair Housing Project.

December 13, 2001 - Vermont Refugee Resettlement Program - Investigator Tracey Tsugawa attended a meeting of the Interpreter's Task Force at the Vermont Refugee Resettlement Program office in Colchester to discuss issues of discrimination.

December 17, 2001 - ADA Coalition - Investigator Tracey Tsugawa attended an Americans with Disabilities Act Coalition meeting at the Vermont Center for Independent Living in Montpelier. Afterwards she met with the Fair Housing Coalition subgroup including Deborah Lisi-Baker, Rob Meehan and Willa Daryl-Chapin.

December 27, 2001 - State Refugee Coordinator - Investigator Tracey Tsugawa met with Denise Lamoureux, the new State Refugee Coordinator in Waterbury to share information and discuss ideas for outreach to refugee groups and service providers working with refugees. She also met with Jim McCobb of the Department of Education to discuss workshops for school staff and refugee parents on discrimination issues (conducted with Assistant Attorney General Martha Csala).

January 3, 2002 - Vermont Self-Determination Project - Investigator Paul Erlbaum met with Kim Daniels of the Vermont Self-Determination Project at Kim's request to describe the Commission's jurisdiction and procedures.

January 3, 2002- Meeting with Commissioner of Education - re: school harassment issues - Executive Director Robert Appel met with Commissioner of Education, Ray McNaulty and some staff members about school harassment issues. Robert and Commissioner McNaulty agreed that the Department of Education would create a system to track calls reporting harassment and the department's responses thereto. Robert and the Commissioner agreed to jointly develop an information packet including a flow chart, which references the Human Rights Commission and the U. S. Office of Civil Rights as complaint recipients, that the Department of Education will send to parents who call with reports of harassment.

January 7, 2002 - Meeting with the Vermont Center for Independent Living (VCIL)- Investigator Tracey Tsugawa met with the Vermont Center for Independent Living Burlington Office to inform them about the Commission and to learn about the work being done through their office.

January 15, 2002 - Celebration of Martin Luther King, Jr. and reception to Welcome the new Executive Director - Representative Francis Brooks and former HRC Commissioner Larry McCrorey spoke to the gathered about the work of Dr. King and the Human Rights Commission. The Executive Director Robert Appel spoke about his vision of the Commission. Robert Appel was then a live guest on WCAX Channel 3-TV News and spoke about the event and the work of the Commission.

January 15, 2002 - LEAD International Investigator Sam Abel-Palmer attended for the Commission at a meeting of LEAD International to plan a Diversity Resource Guide.

January 20, 2002 - Governor's Commission on Women – Executive Director Robert Appel met with the GCW Executive Director, Judith Sutphen and a coalition working on passage of legislation that would make Vermont the 47th state to outlaw sex with inmates.

January 24, 2002 - Vermont State Employees Association – Executive Director Robert Appel met with the VSEA's Executive Director, Anne Noonan to attempt to find middle ground on the legislation that would outlaw sex with inmates.

January 24, 2002 - Fair Housing Coalition – Investigators Sam Abel-Palmer and Tracey Tsugawa attended the work group meeting with CVOEO's Fair Housing Project and Vermont Legal Aid.

January 24, 2002 - Equal Access to Justice Task Force – Executive Director Robert Appel attended this task force. The discussion topics included: the lack of interpretive services for persons in the court process, especially for recent immigrants; an up-date of the Office of Defender General's cognitive facilitator project; and, the racial disparity seen in the Vermont criminal justice system which is being studied by a regression analysis to see if a particular disposition of a criminal charge is predictive of the race of the defendant.

January 25, 2002 - Refugee Resettlement Program Interpreter Task Force – Investigator Tracey Tsugawa attended an interpreter task force meeting at the Vermont Refugee Resettlement Program in Colchester and had a follow-up meeting with VCIL's Burlington staff, including attending their first community meeting with members of the disability community in Burlington area.

January 28, 2002 - Vermont Bar Association - "Civil Liberties in Time of Crisis" – Executive Director Robert Appel was one of eight panelists at this evening event at the Pavilion Auditorium in Montpelier taped by several cable access channels. Additionally, WCAX ran footage of the event that included Robert speaking.

January 29, 2002 - Vermont Apartment Owner's Service – Investigators Sam Abel-Palmer gave a presentation to the Vermont Apartment Owner's Service that the Burlington Community Economic Development Office cosponsored

January 30, 2002 - Vermont Refugee Resettlement Program – Investigator Tracey Tsugawa and AAG Martha Csala from the Attorney General's Office held a meeting on discrimination issues for refugees and staff at the Vermont Refugee Resettlement Program in Colchester.

January 31, 2002 - Fair Housing Workshop - Vermont Regional Planning Commission – Executive Director Robert Appel attended for the Commission to discuss the Commission and Fair Housing issues as they impact on the work of municipal and regional planners.

February 11, 2002 - Community Forum on School Harassment and Racism - Commissioner Kevin Christie, Investigator Paul Erlbaum and Executive Director Robert Appel met with a high level group of local educators, legislators, school board members and parents to brainstorm new and more constructive responses to these issues.

February 14, 2002 - Black History Month – Executive Director Robert Appel and Larry McCrorey appeared on a statewide Adelphia Channel "Community Links" talk show. This was a lively and wide ranging 30 minute discussion on the work of the Human Rights Commission, the history of race relations in Vermont and issues of school harassment and racism.

February 16, 2002 - "Its about Time" Prison Justice Conference - H. O. Wheeler School, Burlington – Executive Director Robert Appel moderated a discussion with five legislators about citizen oversight of Corrections. This forum discussed disparate treatment of female inmates and inmates with mental and physical disabilities.

February 20, 2002 - Council on Aging for Southeast Vermont – Investigator Paul Erlbaum met with the Director and 14 caseworkers to detail the Commission's jurisdiction and to learn about the issues Council clients are facing.

February 25, 2002 - ADA Coalition Meeting – Investigator Sam Abel-Palmer attended an Americans with Disabilities Act Coalition meeting. This is an ongoing group of individuals and organizations that meet to discuss those issues facing individuals with disabilities.

February 27, 2002 - Vermont Protection and Advocacy – Investigator Paul Erlbaum met with the new Executive Director of Vermont Protection and Advocacy. Paul discussed the Commission's areas of jurisdiction, learned about the issues facing their clients and discussed potential areas of collaboration.

March 3, 2002 - "900 Women" - Women's Film Festival - Brattleboro – Executive Director Robert Appel participated in a panel discussion about women in prison. Panelists included the Director of the Tapestry Program and three residents from this therapeutic community for women in custody that is housed at the Brattleboro Retreat. Robert spoke about the issue of staff sexual misconduct with inmates and spoke about the role of the Human Rights Commission.

March 6, 2002 - Challenge Program - Clara Martin Center – Executive Director Robert Appel visited the staff and students of the Challenge Program in East Randolph, a tutorial program for out-of-school youths operating by the Clara Martin Center. Robert was invited in response to on-going incidents of harassment of a student perceived to be a homosexual. Robert provided information on the law against school harassment, and guidance to students and staff in how to respond to such incidents.

March 8, 2002 - Vermont Protection and Advocacy – Investigator Paul Erlbaum met with the intake worker at Vermont Protection and Advocacy (P & A) to discuss the respective jurisdictions of the Commission and P & A.

March 23, 2002 - Green Mountain Film Festival – Investigator Sam Abel-Palmer was a panelist for a discussion held by the Green Mountain Film Festival, after a showing of the film "Oliver Sufton is a Star" about anti-gay harassment in schools.

April 3, 2002 - Fair Housing - Adelphia Cable's Channel 17 – Executive Director Robert Appel appeared live on the Adelphia Cable, Channel 17 show on Fair Housing issues hosted by HUD's Vermont liaison, Mike McNamara, with Champlain Valley Office of Economic Opportunity's (CVOEO) Fair Housing Director Rob Meehan. There was a discussion about fair housing law and fair housing issues in Vermont in honor of Fair Housing Month. There was also a lively discussion on the history and function of both the HRC and CVOEO's Fair Housing Project.

April 9, 2002 - Fair Haven Union High School – Investigator Paul Erlbaum participated in a public meeting about negative public response to the possibility that Gay-Straight Alliance meetings could be held in the school building.

April 9, 2002 - "Law Show" - HRC's Executive Director, Robert Appel was a guest on the "Law Show", hosted by Vermont Bar Association's (VBA) Executive Director Bob Paolini. During this 30 minute program, which was taped for both local and state distribution, there was a wide ranging discussion of the history and function of the HRC, the need for its continued independent status, current legislative issues, the then recently filed suit against Denny's restaurant, school harassment and other Commission priorities.

April 11, 2002 - Caroline Fund - Burlington - HRC's Executive Director, Robert Appel appears as the Keynote Speaker at the annual fundraising event for the Caroline Fund, a fund for disadvantaged women, founded in honor of a deceased victim of domestic violence, Caroline Critchfield. The event was hosted by Nector's Restaurant, Main Street, Burlington. After being introduced by Assistant City Attorney Nicki Fuller, Robert spoke about freedom from domestic violence as a human rights issue, the need for self-respect and dignity for all as a necessary component of commanding respect from others.

April 11, 2002 - Community College of Vermont – Investigator Tracey Tsugawa did outreach in Burlington with the English as a Second Language class at Community College of Vermont.

April 21, 2002 - College Street Congregational Church - Burlington – Investigator Sam Abel-Palmer attended a meeting about "Faith and Justice" at the College Street Congregational Church in Burlington for a community discussion about racial discrimination issues.

April 24, 2002 - Women Helping Battered Women – Investigator Tracey Tsugawa did an outreach with Women Helping Battered Women in Burlington to discuss court interpreter needs/issues.

April 25, 2002 - Signing of the Equal Pay Act – Investigator Sam Abel-Palmer attended for the Commission at the signing ceremony of the Equal Pay Act.

April 25, 2002 - Vermont Refugee Resettlement Project – Investigator Tracey Tsugawa and Martha Csala, Attorney General's Office, met with George Wright of the Vermont Refugee Resettlement Project.

May 7, 2002 – Investigator Sam Abel-Palmer provided Fair Housing Training for the Vermont Association of Realtors in Montpelier

May 8, 2002 – Investigator Sam Abel-Palmer provided Fair Housing Training for the Vermont Police Academy recruit class in Pittsford.

May 13, 2002 - Brattleboro Community Forum – Executive Director Robert Appel was the featured speaker at the Brattleboro Community Forum, which was attended by 25-30 people from the community. During the wide-ranging two-hour discussion, many questions about fair housing issues were posed and discussed.

May 21, 2002 – Investigator Sam Abel-Palmer provided Fair Housing Training for the Vermont Bar Association in Montpelier.

May 23, 2002 – Investigator Sam Abel-Palmer provided Fair Housing Training for the general public in St. Johnsbury.

June 1, 2002 – “Civil Liberties and Human Rights in Light of 911” – Executive Director Robert Appel shared the presentation with Ben Scotch of the Vermont Chapter of the American Civil Liberties Union in a workshop at the American Friends Service Committee’s Annual Conference, 11:00 a.m., Bethany Church, Montpelier.

June 2, 2002 - Board of the Vermont Community Foundation – Executive Director Robert Appel met with the Board of the Vermont Community Foundation at the Woodstock Inn in Woodstock to identify human rights issues of concern in Vermont which the Foundation (a charitable organization) might choose to address in the upcoming year.

June 15 - Vermont Pride 2002 - Investigator Sam Abel-Palmer represented the Commission at the “Pride Vermont 2002” event held at Waterfront Park, Burlington.

CASE SUMMARIES

By statute, only if the Human Rights Commissioners find that there are reasonable grounds to believe that unlawful discrimination occurred, the Investigative Report and the Final Determination (including the identities of the Charging Party and the Respondent) become public documents. If the Human Rights Commission finds that there are not reasonable grounds to believe that unlawful discrimination occurred, the Commission must keep the identities of the parties confidential. In addition, any settlement in which the Human Rights Commission is a party also becomes a public document. Some of the more notable cases in which the Commission either issued a "cause" finding or entered into a settlement agreement are summarized below.

PUBLIC ACCOMMODATIONS

Racial Discrimination

Keith Longmore and Devall Baker v. Second Summa Corporation d/b/a Denny's Restaurant (South Burlington)

On September 22, 2000, the Charging Parties filed charges of discrimination against the Second Summa Corporation alleging that Denny's restaurant in South Burlington attempted to seat them in a closed section of the restaurant (next to a mop bucket), away from other customers, because of their race and color (both are African-American and black). They further claimed that when they requested a table in the main part of the restaurant, a Denny's employee told them that they had to sit in the closed section or leave the restaurant. The Final Determination of the Human Rights Commission issued on September 19, 2001 found that there were reasonable grounds to believe that Denny's illegally discriminated against the Charging Parties on the basis of race and color.

On March 29, 2002, the Human Rights Commission filed a Complaint and Demand for Jury Trial in the Washington Superior Court against the Second Summa Corporation. The case was settled when the Second Summa Corporation agreed to comply with Vermont's Fair Housing and Public Accommodations Law, and paid the Charging Parties \$2,000 each, and the Human Rights Commission \$1000 to cover its costs of investigation and litigation of this matter.

John Lee v. Benway's Transportation, Inc. (Benway's Taxi)

On February 1, 2001, the Charging Party filed a charge of discrimination against Benway's Taxi, alleging that a Benway's driver delivered services to him in a marked hostile fashion due to his race and color. This incident occurred after the Charging Party requested a Benway Taxi to take him to Essex Junction from Burlington. Mr. Lee claimed that the female cab driver spoke to him abusively, called him racial epithets, physically assaulted him, and attempted to run him down with a taxi. (Mr. Lee is African-American).

On March 16, 2001, the State of Vermont filed a charge of Simple Assault against the female driver in Chittenden District Court based on the charging party's allegations. On April 5, 2001, the driver entered a plea of not guilty. On November 11, 2001, the charge was reduced to Disorderly Conduct, and the driver entered a plea of no contest resulting in a fine of \$150.

The Final Determination of the Human Rights Commission, reached on June 18, 2002, found that there were reasonable grounds to believe that Benway's Transportation, Inc., doing business as Benway's Taxi, unlawfully discriminated against the Charging Party on the basis of race and color. Settlement efforts extended into FY03.

Disability Discrimination

Stephen Trudo v. John Rehlen—BRI Management and Special Effects

On June 9, 2000, the Charging Party filed charges of discrimination against John Rehlen (and two retail establishments operating in buildings owned by Mr. Rehlen). Mr. Trudo alleged that Mr. Rehlen discriminated against him by failing to provide wheelchair access to two stores located in a building in Castleton that Mr. Rehlen owns, a handicapped accessible parking space for the two stores, and a handicapped accessible restroom in the two stores. Mr. Rehlen claimed that he had intended to install a ramp and parking spaces to make the building handicapped accessible, but that architectural complexity and financial hardship had so far prevented him from doing so. Mr. Rehlen also claimed that the stores in question do not provide restrooms for the general public.

The Final Determination of the Human Rights Commission, reached on March 12, 2002, found reasonable grounds to believe that John Rehlen unlawfully discriminated against Mr. Trudo on the basis of disability by failing to provide wheelchair access to the two stores and a handicapped accessible parking space for the two stores. The Investigative Report and the Final Determination of the Commission also found that there were no reasonable grounds to believe that John Rehlen illegally discriminated against Mr. Trudo on the basis of disability by failing to provide a handicapped accessible restroom in the two stores. The case was settled when John Rehlen made the accommodations requested by the Charging Party and required by law.

Shirley Scribner v. The University of Vermont

On August 24, 1999, the Charging Party filed a charge of discrimination against the University of Vermont, alleging that six professors expressed reluctance or refused to provide her with the reasonable academic accommodations that she had requested because of her language-based learning disability. The University of Vermont denied that it had failed to provide the Ms. Scribner with the reasonable academic accommodations that she had requested. The Final Determination of the Human Rights Commission, reached on August 15, 2001, found that there were reasonable grounds to believe that the University of Vermont unlawfully discriminated against Ms. Scribner on the basis of disability. Settlement efforts extended into FY03, but proved fruitless. The Commission declined to litigate this matter on behalf of the Charging Party.

HOUSING

Discrimination Against Families with Children

Desiree Clark v. Louise Bianchi

On May 19, 2000, the Charging Party filed a charge of discrimination against Louise Bianchi, alleging that Ms. Bianchi evicted her from an apartment in Rutland because she informed Ms. Bianchi that lead paint in the apartment had caused her two-year-old son to test positive for an elevated level of lead in his blood. Ms. Bianchi claimed that she evicted Ms. Clark because Ms. Clark had caused disturbances in the building and had conflicts with other tenants, neighbors and service providers.

The Final Determination of the Human Rights Commission, reached on December 12, 2001, found that there were reasonable grounds to believe that Louise Bianchi illegally discriminated against Ms. Clark on the basis of minor children and in retaliation for Ms. Clark having filed a charge of discrimination.

The case was settled on July 17, 2002, when Ms. Clark and Louise Bianchi agreed to the following Post-Determination Conciliation Agreement terms: Louise Bianchi agreed to pay the Charging Party \$1,500, and to provide Ms. Clark with a positive letter of reference. Louise Bianchi also agreed not to retaliate against the Charging Party for having filed the charge, or against any person who cooperated with the investigation of the charge. Lastly, Louise Bianchi agreed to comply with Vermont's Fair Housing and Public Accommodations Law.

Discrimination Against Public Assistance Recipients

Darcy Young v. P. G. Adams, Inc.

On July 28, 2000, the Charging Party filed a charge of discrimination against P. G. Adams, Inc., alleging that she was denied the opportunity to rent an apartment in Burlington owned by P. G. Adams, Inc. and managed by Ashley Adams because she received Section 8 housing assistance. Paul Adams (of P. G. Adams, Inc.) and Ashley Adams claimed that they had no recollection of having had an encounter with Ms. Young, but Ms. Adams did admit that, at the time, she did not accept applications from potential renters who received Section 8 assistance. The Final Determination of the Human Rights Commission, reached on June 18, 2002, found that there were reasonable grounds to believe that P.G. Adams, Inc. unlawfully discriminated against Ms. Young on the basis of receipt of public assistance. Settlement efforts extended into FY03.

Darcy Young v. Preston Property Management, Inc. and Leonard and Dorothy Thibault

On July 28, 2000, the Charging Party filed a charge of discrimination against Preston Property Management, Inc. and Leonard and Dorothy Thibault, alleging that she was denied the opportunity to rent an apartment in Burlington owned by the Thibaults and managed by Preston Property Management, Inc. because she received Section 8 housing assistance. Preston Property Management, Inc. claimed that the Thibaults had instructed them not to participate in Section 8. The Thibaults denied that they had given Preston Property Management, Inc. those instructions.

The Final Determination of the Human Rights Commission, reached on June 18, 2002, found that there were reasonable grounds to believe that Preston Property Management, Inc. and Leonard and Dorothy Thibault illegally discriminated against The Charging Party on the basis of receipt of public assistance. Settlement discussions extended into FY03.

Disability Discrimination

Dana Dellinger v. Sonny Demars

On September 19, 2001, the Charging Party filed a charge of discrimination against Sonny Demars, alleging that Mr. Demars agreed to rent an apartment to her if she intended to live there alone, but refused to rent her the apartment if she intended to live there with her son, who has autism. Mr. Demars denied that he discriminated against Ms. Dellinger because of her son's disability. He claimed that he refused to rent her the apartment if she lived there with her son because he thought that her son posed a threat of harm to other children living in the building.

The Final Determination of the Human Rights Commission, reached on May 14, 2002, found that there were reasonable grounds to believe that Sonny Demars illegally discriminated against the Charging Party on the basis of disability. This matter was successfully resolved through the Commission's Mediation program. The landlord agreed to change its policies and practices, and to pay \$5,000 to the affected family.

LEGISLATIVE ACTIVITY

Among the responsibilities with which the Legislature has charged the Human Rights Commission is the duty to "examine and evaluate" the effectiveness of Vermont's civil rights laws and "the existence of practices of discrimination which detract from the enjoyment of full civil and human rights." The Commission is further mandated to "recommend measures designed to protect those rights." 9 V.S.A. § 4552(a). The Commission fulfills this mandate by, among other things, suggesting legislation designed to protect Vermonters' civil rights, commenting on proposed legislation that would affect civil rights, and providing information and advice to the Legislature.

During the 2002 Legislative Session, the Human Rights Commission worked to secure the passage of the bills described below.

Act 81 (S.102) – Equal Pay for Equal Work

In 1998, the wages of women who worked were only 73% of the wages earned by men. According to a report by the National Academy of Sciences, only one-half of this gap can be explained by differences in experience, education, or other legitimate qualifications. A portion of the gap can be attributed to the fact that many women work in traditionally female-dominated jobs where wages are low. However, women earn less than men do even when they are in the same occupations.

The passage of S.102 brings Vermont's Fair Employment Practices Act, 21 V.S.A. § 495 et seq., into conformity with the federal Equal Pay Act, 29 U.S.C. § 206(d), by making it unlawful to pay wages to employees of one sex at a lower rate than wages paid to employees of the opposite sex for equal work that requires equal skill, efforts, and responsibility and is performed under similar working conditions.

Act 117 (S. 156) — Protecting Breast-Feeding Mothers from Discrimination in Places of Public Accommodation.

During the 2001 Session, the Senate passed S. 156 prohibiting criminal prosecution of breastfeeding mothers in public for the crime of lewd and lascivious behavior. During the 2002 Session, the House passed a very different version of S. 156 amending Vermont's Public Accommodation Act to allow a mother to breastfeed "her child in any place of public accommodation in which the mother and child would otherwise have a legal right to be." These two versions of this bill were successfully merged in a Committee of Conference. The key points involved in forging the compromise were: 1) delaying the effective date of the new provision until March 15, 2003; and, 2) requiring the Human Rights Commission to "develop and distribute materials that provide information regarding a woman's right to breastfeed her child in a place of public accommodation."

S.87 – Prohibiting Sexual Contact by Correctional Staff with Inmates

State employees who supervise prison inmates and parolees have enormous power over those inmates and parolees. Unscrupulous individuals use this power to extort sexual favors through explicit or implicit threats of retaliation or promises of reward or privilege. Amnesty International, Human Rights Watch, and the U.N. Commission on Human Rights have reported sexual abuse in prisons in all 50 states.

Vermont is one of three states without a statute making sexual contact between the "keepers" and the "kept" unlawful per se. There is much resistance from the Vermont State Employees Association's Correctional Bargaining Unit which states that passage of the bill would lead to a number of false accusations against its members by untrustworthy inmates. Despite a broad coalition in support of the bill, the bill failed to come out of the House Institutions Committee during the 2002 Session after its passage by the Senate during the 2001 Session.

H.407 – Establishment of A Racial Profiling Task Force

In 1999, African Americans made up approximately one-half of 1 percent of Vermont's population but accounted for 2.5% of the arrests in the State and more than 4% of the State's prison population. African Americans in Vermont are arrested at a rate five times that of the general population of the State and are jailed at a rate eight times that of the general population.

H.407 would establish a task force charged with ascertaining the causes of these disparities and recommending ways to address the issue. H.407 did not pass out of the House Government Operations Committee during the 2002 Session.

MEDIATION PROGRAM

The Human Rights Commission instituted a Mediation Program in 1998 to provide professional mediators at no cost to parties to assist them in resolving their cases in a mutually acceptable manner.

If the Commission's staff determines that a case is appropriate for mediation, it sends the parties information about mediation and an invitation to participate in the mediation program. Mediation is entirely voluntary; it will not take place unless both parties agree to it. If the parties elect to participate in mediation, they meet with a mediator who attempts to help them to work out a mutually satisfactory resolution of the case. If the mediation produces a settlement, which the Commission accepts, the Commission will close the case and take no further action except to assist in enforcing the terms of the settlement, if that becomes necessary. If the case is not settled through mediation, the Commission's staff will complete the investigation of the case and the Commission will issue a final determination and if cause is found, enforcement action may ensue if conciliation fails.

The Mediation Program fulfills a number of Commission goals:

- Mediation is an effective method for achieving equitable results through a collaborative, rather than an adversarial, approach to resolving disputes. Studies have shown that there is greater satisfaction with dispute resolutions arrived at through the approach used in mediation than through resolutions imposed in litigation. In addition, mediation is quicker and less expensive than investigations and litigation.
- Discrimination charges are often only one facet of parties' disputes. Mediation allows parties to be creative in crafting a resolution of the full range of issues dividing them.
- The Commission's staff has always attempted to facilitate settlements and continues to do so. However, because of the Commission's fact-finding and enforcement functions, some parties are reluctant to discuss their positions with the staff with a frankness that is conducive to settlement. Since what goes on in mediation is confidential, parties' discussions are less inhibited. In addition, although attempting to facilitate settlements is an important role of the Commission's staff, unlike mediators, the staff cannot devote their exclusive attention to conciliation.
- Mediation allows the Commission to focus its limited resources on cases which cannot be settled, cases which raise broad policy issues, cases which affect a large number individuals and cases in which the respondent has previously violated the law.

Prior to FY02, the Commission had offered mediation in 80 cases since the Program's inception in FY96. Mediation led to settlements in 25 cases resulting in a total of \$329,700 in compensation paid to charging parties; settlement was not reached in 17 mediated cases.

During FY02, the Commission changed its process and offered mediation to the parties in almost every case upon notification to the Respondent. Mediation was offered in a total of 59 cases. Both parties agreed to mediation in 12 cases, with 6 resulting in successful resolutions resulting in a total of \$13,700 in compensation to charging parties.

The Commission hopes that its changed procedure inviting parties to engage in mediation with a professional mediator at the beginning of the investigative process will result in more mediations, and more successful mediations, in future years.

Some of the settlements arrived at through mediation during FY02 are described below.

Housing Cases

- A landlord who had been found by the Commission to have discriminated on the basis of disability against a mother in refusing to rent her an apartment if she intended to live there with her son, who has autism. The landlord stated that her son posed a threat of harm to other children living in the building. The landlord agreed to change its policies and practices, and to pay \$5,000 to the affected family.
- A landlord agreed to provide a handicapped parking space available to a tenant with a disability that qualified for a handicapped parking placard and in the future to comply with all applicable state and federal fair housing laws.
- A landlord agreed to not subject an immigrant family to closer scrutiny with respect to the presence of family members not listed on the lease as tenants. In addition, the landlord agreed to pay the elderly woman complainant an undisclosed sum of money to compensate her for the stress caused by initial efforts to evict her because her son and daughter spent more time tending to her care than other tenants.

Public Accommodations Cases

- A high school agreed to pay \$1500 to a student who it failed to protect from incidents of racial harassment in school, and the school further agreed to revise its policies and procedures pertaining to school harassment, and to engage in training for all of its staff over the next two school years on diversity, multiculturalism and preventing, recognizing and responding to incidents of harassment.
- A state agency agreed to communicate with a visually impaired client by alternative format (e-mail or telephone call) each and every time a written communication is mailed to her. The agency will note on the client's file the need to communicate by alternative means.
- A high school agreed to pay for the home schooling of a student who withdrew from school because of what she contended was sexual harassment.

- A municipal law enforcement agency agrees to pay a hearing impaired individual an undisclosed amount of money to compensate her for harm suffered by its initial failure to provide effective communication to the charging party who was seeking services.

LITIGATION

If the Commission finds reasonable grounds to believe that unlawful discrimination occurred in a case, for a period of six months, the Executive Director attempts to settle the case in a manner which eliminates the discrimination and its effects either directly or through the assistance of a professional mediator. If this effort is unsuccessful, the Commission is authorized to initiate a lawsuit seeking an injunction, damages, attorney's fees, and a \$10,000 civil penalty for each violation proven. The Commission engaged in litigation in the following cases in FY02:

Human Rights Commission v. Benevolent and Protective Order of Elks of the United States of America and Benevolent and Protective Order of Elks, Hartford, Vermont, Lodge No. 1541, Washington Superior Court

In 1995, the Elks repealed its rule prohibiting women from becoming members. In 1997, six women applied for membership in the Hartford Elks Lodge. Each woman had been associated with the Lodge over a long period of time, each met all the qualifications for membership, and each was recommended for membership by the Lodge's Membership Committee. Nevertheless, the Lodge rejected each of their membership applications. The Lodge had 1,008 male members and no female members at the time and had not rejected a membership application during the previous five years.

The Commission filed a lawsuit contending that the Elks denied the women membership because of their gender in violation of Vermont's Fair Housing & Public Accommodations Act. The parties completed discovery and moved for summary judgment in January 2001.

In October 2001, the court dismissed the case on the ground that the Elks is a private club and, therefore, not covered by the state's civil rights law. The Commission has appealed the decision to the Vermont Supreme Court.

Terry Rogers and Vermont Human Rights Commission v. Wal-Mart Stores, Inc., Washington Superior Court

This action alleges that Wal-Mart employees refused to permit a woman with emotional and hearing disorders to enter the store with her service dog and harassed her after her physician had explained to the store manager the nature of the woman's disabilities and her need for the dog.

Wal-Mart removed the case to federal court and the Commission obtained an order remanding it to state court. Wal-Mart then moved for summary judgment. In October 2001, the court denied Wal-Mart motion and set a January 2002 trial date. However, shortly before trial, with the assistance of a professional mediator, Wal-Mart Inc. agreed to pay Ms. Rogers an undisclosed amount of money to compensate her for emotional harm and for her attorney's fees. In addition, Wal-Mart issued a letter to Ms. Rogers that authorizes her to bring her service animal with her when she shops at Wal-Mart Stores in Vermont and New Hampshire. Wal-Mart, Inc. also was required to issue a non-discrimination policy with respect to customers with service animals and to provide training to all of its Vermont employees on this new policy within one year of the date of the agreement. This policy became the model for Wal-Mart's national policy on service animals that was adopted and implemented in 2003.

Human Rights Commission and Katherine LaPrad v. Cedar Glen North Association and Marjorie Westphal, Washington Superior Court

The Commission sued a condominium association and its Treasurer for violating the prohibition in the Fair Housing & Public Accommodations Act against making statements of "preference, limitation or discrimination" in the sale or rental of housing because a person intends to occupy the housing with minor children. 9 V.S.A. § 4503(a)(3). The complaint charges that the Treasurer of the condominium association attempted to discourage a woman with a teenage child from purchasing a unit in the complex by telling her that the association did not want children living there, that families with children would not be comfortable living there, and that it was not the place for her.

This matter was also resolved with the assistance of a professional mediator resulting in the Association paying Ms. LaPrad \$15,000 in compensatory damages and attorney's fees. In addition, the Association agreed to have its officers attend a Fair Housing Seminar presented by Commission staff as well as to not retaliate against the complainant and to fully comply with all state and federal fair housing laws.

Vermont Human Rights Commission v. Second Summa Corporation d/b/a Denny's Restaurant (South Burlington)

On March 29, 2002, the Commission sued the Second Summa Corporation alleging that its Denny's Restaurant in South Burlington discriminated against two African-American men by attempting to seat them in a closed section of the restaurant (next to a mop bucket containing dirty water), away from other customers. The two complainants further claimed that when they requested a table in the main part of the restaurant, a Denny's employee told them that they had to sit in the closed section or leave the restaurant. The Final Determination of the Human Rights Commission issued on September 19, 2001, found that there were reasonable grounds that illegal racial discrimination had occurred.

The case was settled when the Second Summa Corporation agreed to comply with Vermont's Fair Housing and Public Accommodations Law, and paid the Charging Parties \$2,000 each, and the Human Rights Commission \$1000 to cover its costs of investigation and litigation of this matter.

Vermont Human Rights Commission v. Missisquoi Valley Union High School Board of Directors

On May 15, 2002, the Commission filed for a Temporary Restraining Order on behalf of harassment victim Peter Bessette. Peter Bessette, a slightly built young man of East Indian national origin, encountered racial harassment from a classmate in the spring of their senior year. The harasser directed both racial epithets and threats of physical harm against the complainant. The complainant, following school policies, reported the harassment first to a school resource officer (a deputy sheriff) who responded by stating that because the harassment was verbal in nature, there was nothing that the officer could do to assist the complainant. The officer then counseled Peter that he should "build himself up"—that is, defend himself physically. Peter also brought the harassment to the attention of the dean of students who also failed to respond appropriately. Given his real fear of imminent attack and after further harassment, unfortunately Peter Bessette resorted to self-help, by hitting the perpetrator over the head with a crutch in the cafeteria. The school responded by expelling Peter (later reduced to a 10 day suspension) who was also charged with aggravated assault (later reduced to simple assault). The Commission was successful in reducing the length of the suspension imposed, allowing Peter to return to school and successfully complete his senior year and graduate with his class.

GLOSSARY

Some of the terms used in the graphs appearing on the following pages are defined below.

Administrative Dismissal: Cases closed for one of the following reasons: failure of the Charging Party to sign and return a charge to the Commission, failure of the Charging Party to cooperate with the investigation, failure of the Charging Party to substantiate the charge, or lack of jurisdiction.

Final Determination: The vote of the Commissioners on the charges in a case. Final determinations are based on the Investigative Report prepared by the staff, written comments submitted by the parties, and oral presentations to the Commissioners by the parties or their representatives at a Commission meeting. The final determination can be a finding that there are **reasonable grounds** or **no reasonable grounds** to believe that unlawful discrimination occurred. If a charge claims that discrimination was based on more than one protected category, a final determination in the case will generally include findings as to each protected category. The Commissioners may also vote to reopen a case for further investigation; if that occurs, the Commissioners will issue a final determination at a subsequent Commission meeting. If only four Commissioners take part in the deliberations on a case, with two voting to find reasonable grounds and two voting to find no reasonable grounds, the final determination is a **tie** which the Commission treats as a no grounds finding.

Informational Inquiries: The Commission's staff receives and responds to a wide variety and a large number of requests for information about anti-discrimination laws enforced by the Commission or other agencies and allegations of illegal acts over which the Commission does not have jurisdiction, such as, for example, allegations of violations of constitutional rights or of state and federal statutes which the Commission is not authorized to enforce.

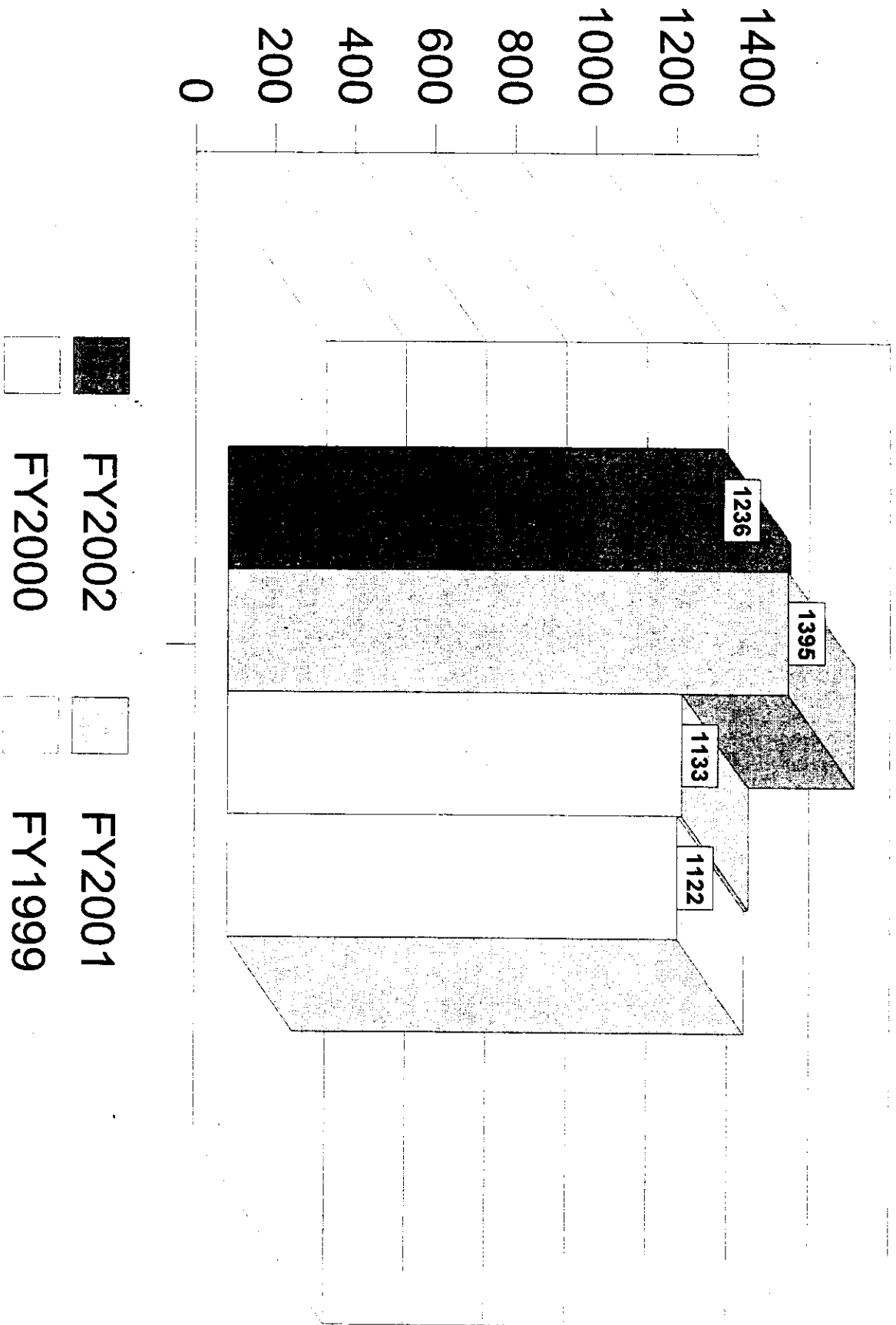
Pre-Determination Conciliation Agreement: The settlement of a charge of discrimination before the Commission has made a final determination is called a Pre-Determination Conciliation Agreement (PDCA). PDCA's are voluntary agreements between the parties and frequently include terms proposed by the Commission. The Commission encourages the parties to enter into PDCA's. PDCA's are public documents.

Post-Determination Conciliation Agreement: The settlement of a charge of discrimination after the Commission has made a final determination that there are reasonable grounds to believe that unlawful discrimination occurred is called a Post-Determination Conciliation Agreement (Post-DCA). Post-DCA's are voluntary agreements between the parties and the Commission reached in lieu of litigation. If the parties do not sign a Post-DCA within six months of the final determination, the Commission will decide whether to commence litigation or to dismiss the case. The Commission encourages parties to enter into Post-DCA's. Post-DCA's are public documents.

Protected Category: A characteristic or condition of an individual (such as, e.g., race, sex, sexual orientation, national origin, disability). Vermont law prohibits discrimination in housing, places of public accommodation, and state government employment on the basis of certain protected categories. A charge filed with the Commission may allege discrimination on the basis of more than one protected category.

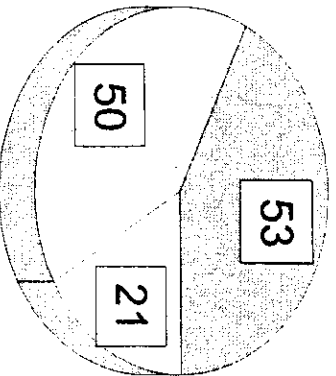
Withdrawal: A party may withdraw his or her charge of discrimination at any time prior to a final determination, with the approval of the Commission's Executive Director.

NUMBER OF INFORMATIONAL INQUIRIES RECEIVED ANNUALLY

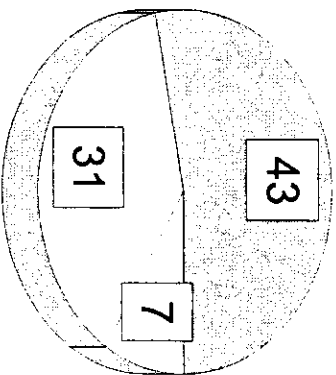


NUMBER OF CHARGES FILED ANNUALLY

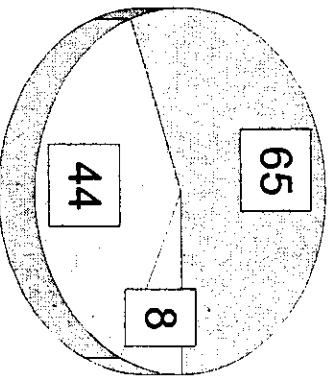
FY2002 - 124 Charges



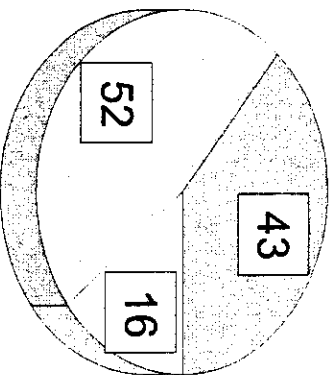
FY2001 - 81 Charges



FY2000 - 117 Charges



FY1999 - 111 Charges

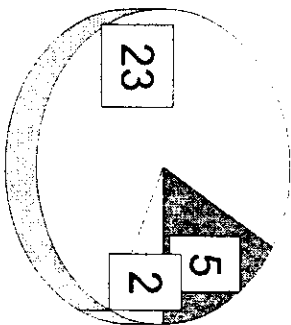
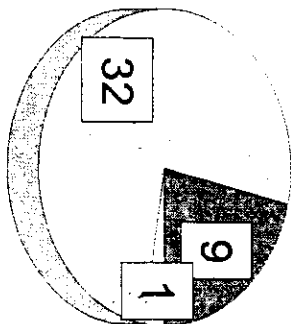


- ☐ HOUSING
- ☐ PUBLIC ACCOMMODATIONS
- ☐ STATE GOVERNMENT EMPLOYMENT

ANNUAL BREAKDOWN OF FINAL DETERMINATIONS

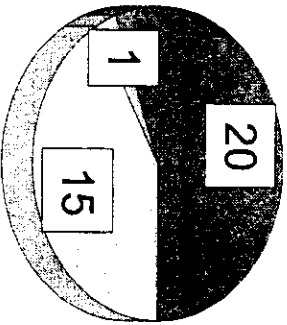
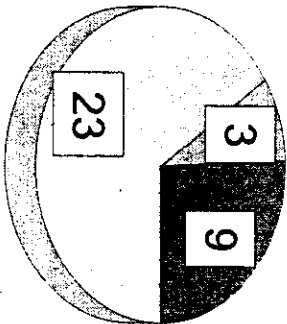
FY2002 - 42 Charges

FY2001 - 30 Charges



FY2000 - 35 Charges

FY1999 - 36 Charges



REASONABLE GROUNDS



TIE VOTE

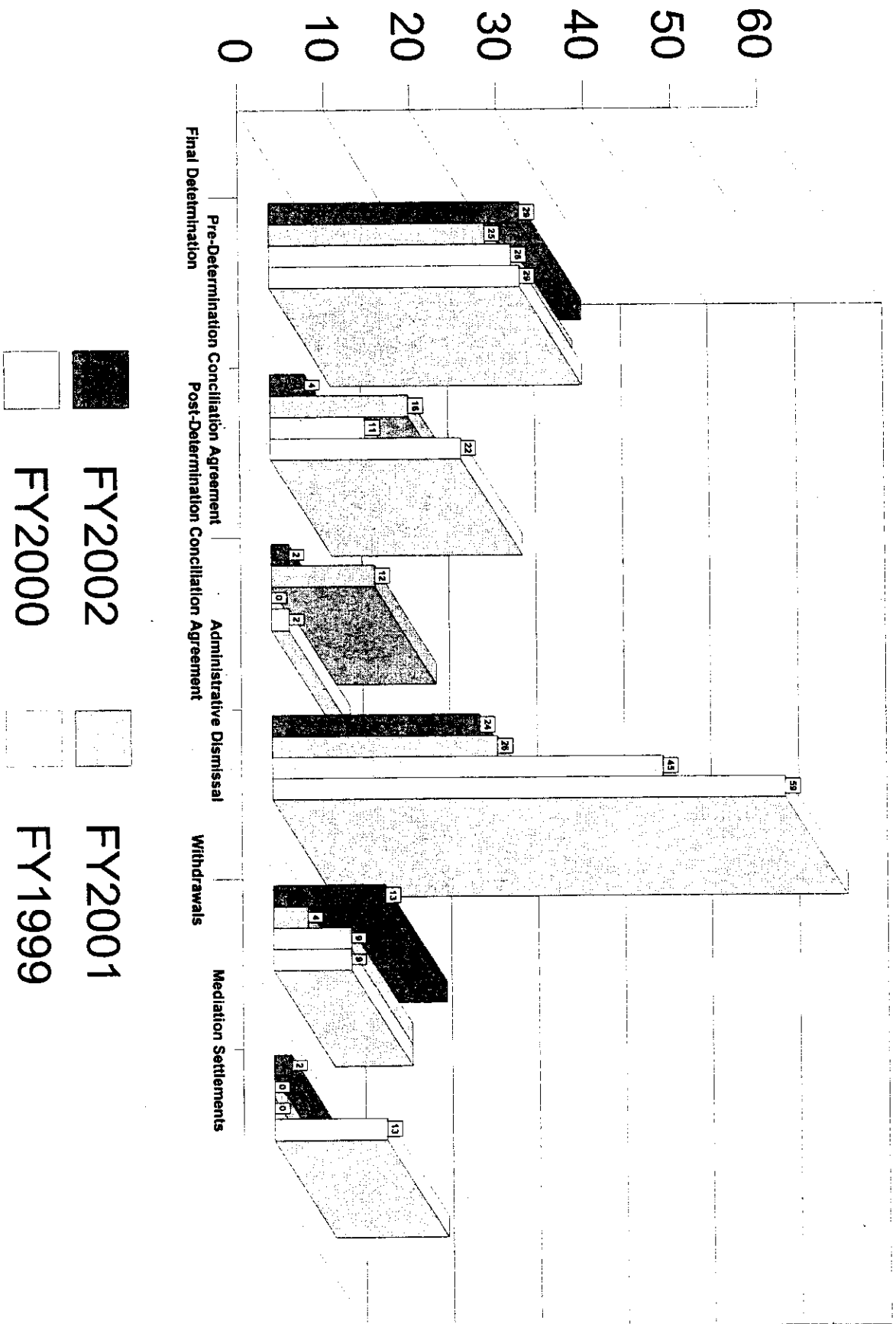


NO REASONABLE GROUNDS

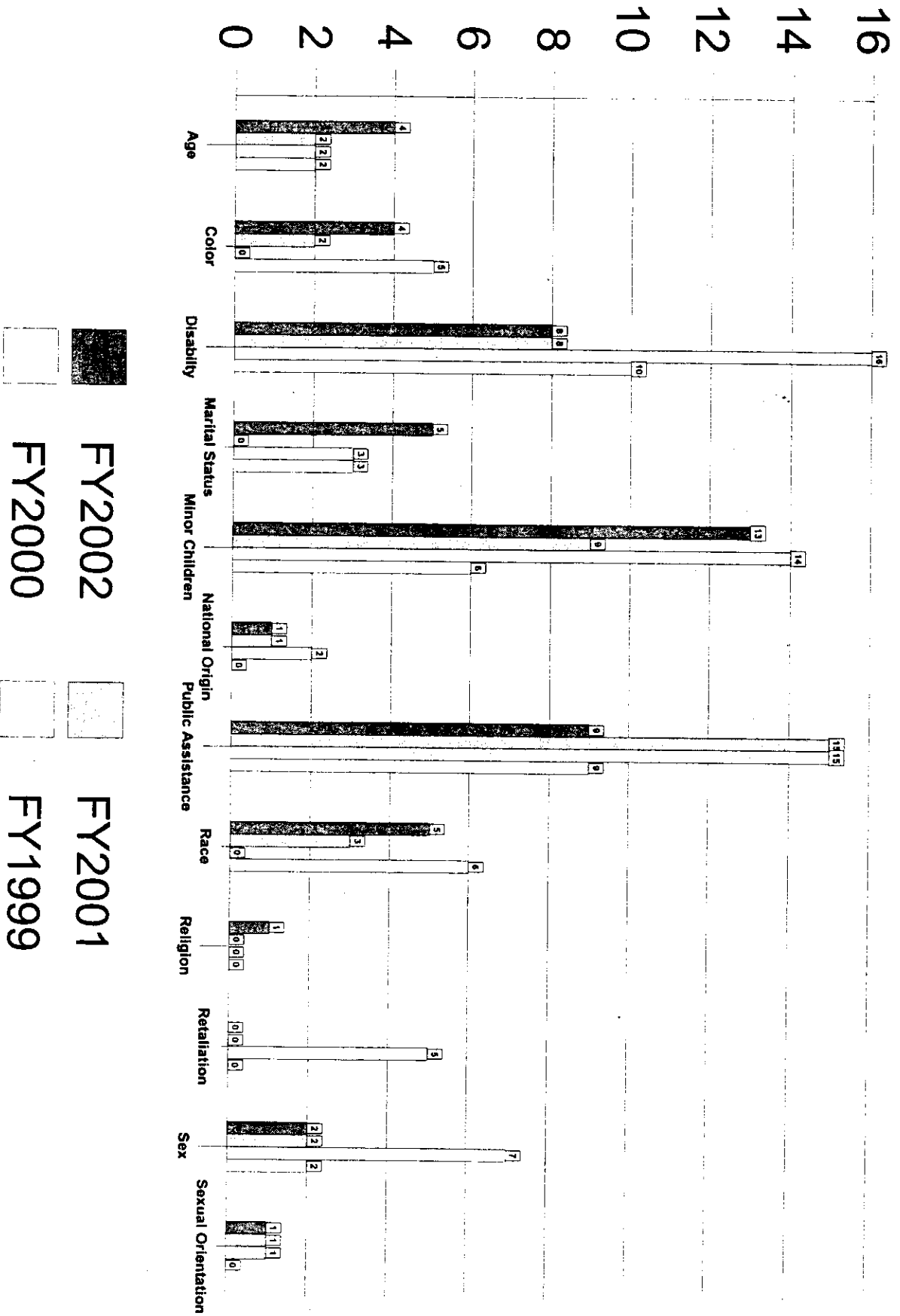


REOPENED

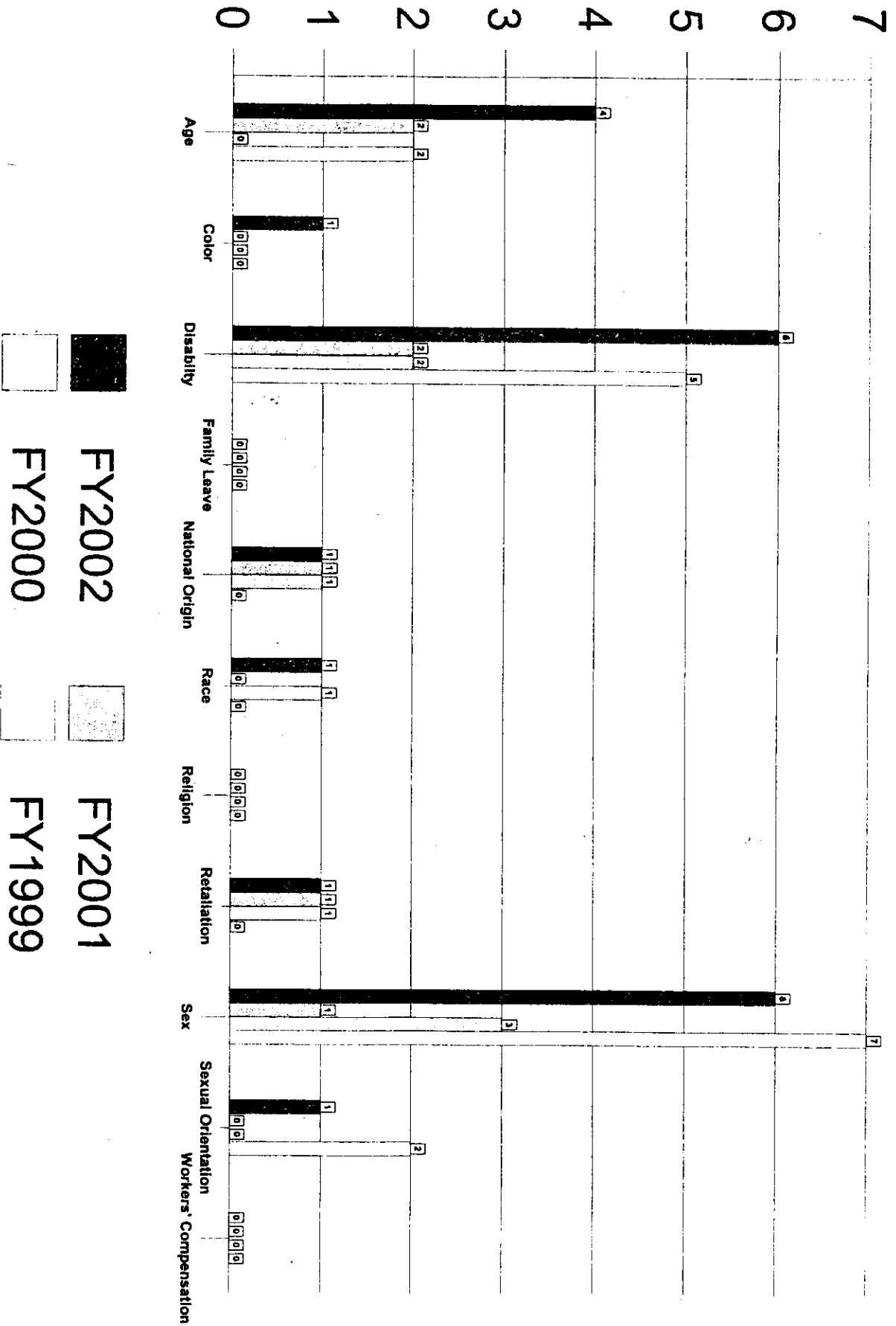
BREAKDOWN OF CASES CLOSED ANNUALLY



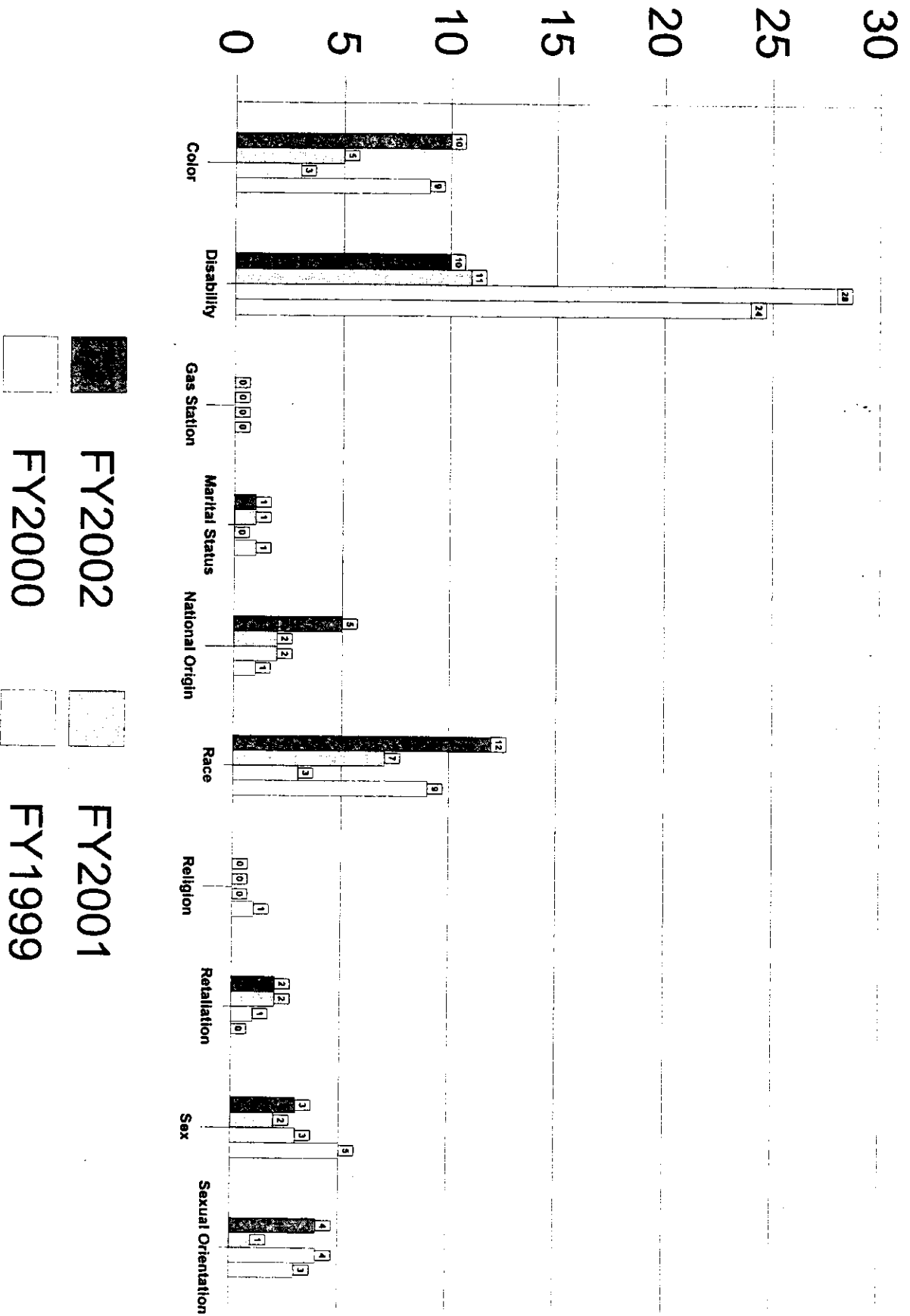
BREAKDOWN OF HOUSING CHARGES BY PROTECTED CATEGORY



BREAKDOWN OF STATE GOVERNMENT EMPLOYMENT CHARGES BY PROTECTED CATEGORY



BREAKDOWN OF PUBLIC ACCOMMODATION CHARGES BY PROTECTED CATEGORY



MONETARY RECOVERIES IN COMMISSION CASES

